

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

UNITED STATES DISTRICT COURT

for the
District of

Division

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2021 OCT -7 AM 11:46
OFFICE OF THE CLERK

8:21 CV/300

Case No.

(to be filled in by the Clerk's Office)

Lucas D. Schmidt

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☐ Yes ☐ No

H.H. Hall Restaurants of York, Inc.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

RECEIVED

OCT 07 2021

CLERK
U.S. DISTRICT COURT

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Lucas D. Schmidt

Street Address

830 Polk Street

City and County

Hising City, Butler County

State and Zip Code

NE 68658

Telephone Number

402-363-4680

E-mail Address

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Defendant No. 1

Name H.H. Hall Restaurants of York, Inc.
Job or Title *(if known)* _____
Street Address 4012 S Lincoln Ave
City and County York, York County
State and Zip Code NY 68467
Telephone Number 402-362-2363
E-mail Address *(if known)* _____

Defendant No. 2

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

Defendant No. 3

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

Defendant No. 4

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name

McDonald's

Street Address

4012 S Lincoln Ave

City and County

York, York County

State and Zip Code

NE 68467

Telephone Number

402-362-2363

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Other federal law (specify the federal law):



Relevant state law (specify, if known):



Relevant city or county law (specify, if known):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts (specify): Sexual Harassment

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

Between October of 2018 until end of employment

C. I believe that defendant(s) (check one):

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check all that apply and explain):

- ☐ race _____
- ☐ color _____
- ☒ gender/sex Documents included
- ☐ religion _____
- ☐ national origin _____
- ☐ age (year of birth) _____ (only when asserting a claim of age discrimination.)
- ☐ disability or perceived disability (specify disability) _____

E. The facts of my case are as follows. Attach additional pages if needed.

See attached documents. Included are the Charge of Discrimination, The Right to Sue Letter from the EEOC, →

A list of occurrences that was submitted to upper management, A brief list of Discriminatory events, a list of the sexual harassment I endured along with the offenders, and a letter I had written and also submitted to upper management. I also have a list of witnesses on my behalf as well as screenshots from other employees stating they never witnessed me doing what H.H. Hall attempted accusing me of - which can be provided upon request.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

June 25, 2020

- B. The Equal Employment Opportunity Commission (check one):

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on (date) June 19, 2021.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I ask the court to order \$32,400 in lost wages, as I would still be employed there had they not terminated me. I also ask a sum of \$150,000 in damages - \$50,000 each for the discrimination, sexual harassment, and retaliation - or the maximum allowed for a total of \$182,400.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 9-26-2021

Signature of Plaintiff

Printed Name of Plaintiff

Lucas D. Schmidt

Lucas D. Schmidt.

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

CHARGE OF DISCRIMINATION		AGENCY <input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER NEB 2-19/20-6-51411-RS 32E-2020-00514
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		DATE RECEIVED BY NEOC RECEIVED NEOC JUN 25 2020 OMAHA OFFICE	
Nebraska Equal Opportunity Commission and EEOC			
NAME (indicate Mr., Ms., Mrs.) Mr. Lucas D. Schmidt		HOME TELEPHONE (402) 363-4680	
STREET ADDRESS 411 N Iowa Ave York NE 68467		CITY, STATE AND ZIP CODE	DATE OF BIRTH 5/11/1993
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME H. H. Hall Restaurant of York, Inc. d/b/a McDonald's		NUMBER OF EMPLOYEES, MEMBERS 15-100 Employees	TELEPHONE
STREET ADDRESS 4012 S Lincoln Ave York NE 68467		CITY, STATE AND ZIP CODE	COUNTY York
NAME		NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN		10/1/2018 6/11/2020	
<input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION		<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I am Male but I do not meet the sexual stereotype of a male in how men are expected to present themselves in my physical appearance, actions, and/or behaviors. I worked for the Respondent starting in July 2018 until June 11, 2020 most recently as a certified Swing Manager. Due to my sexual orientation, I was subjected to different terms and conditions of employment and was harassed. I complained about the harassment. In retaliation for my complaints, and due to my sexual orientation, my wages were reduced, and I was terminated.</p> <p>II. I believe I have been discriminated against on the bases of sex, male, for not conforming to sex stereotypes about how men are expected to present themselves in my physical appearance, actions and/or behaviors, and retaliation, in violation of Title VII of the Civil Rights Act of 1964, as Amended, and Sections 48-1104 and 48-1114(1)(a) of the Nebraska Fair Employment Practice Act, in that:</p> <ol style="list-style-type: none"> Beginning in October 2018 and continuing throughout my employment, I was subjected to different terms and condition of employment when my guest service times were not recognized, nor was I was selected to help coach Kitchen staff. My times were better than Managers Doug Todd (male), April Jinright (female), Betty Jo Glines (female), Aaliyah Summerville (female) and Raechel Kelly (female), and yet they were all either recognized for their times or placed in the Kitchen while I was not. Additionally, when these managers asked for additional resources such as extra individuals their requests would be granted, but when I would ask, my request would not be. Throughout my employment, I was subjected to further different terms and conditions of employment when my suggestions for coaching crew members were typical ignored, or if I took coaching concerns to General Manager Karen Joyce (female) and Area Supervisor Bette Wiehn (female) I was told I was wrong and chastised for suggesting a person needing coaching. In October 2019, I injured myself at work and was not allowed to seek medical attention for about 2-2.5 hours after the injury occurred, as Respondent stated there was no one to cover for me. Other co-workers who are ill are provided coverage without issue. Brittany Hindal (female) would call in for illnesses and she would be provided coverage. In December 2019, and again on May 22, 2020, I had a family emergency. When I asked to leave, I was told Respondent had no one to cover me and I was discouraged from leaving work in December 			

Lucas D. Schmidt vs. H. H. Hall Restaurant of York, Inc. d/b/a McDonald's
Page 2

2019. Other co-workers would have a family emergency or an illness and they would be provided coverage. For example, Manager Glines had a family emergency and was encouraged to leave work to support that family member.

5. Throughout my employment I was sexual harassed daily due to my sexual orientation. Various male crew members including Doug Todd, James Rowe (male), and Lane Wurst (male) would make comments about penises (predominantly theirs), sex, make crude penises out of butter and pickles, and joke about going into the freezer to have sex with me. David Nelson (male) would state I would like it rough, that he wanted to have sex with my husband and I, and how he wanted to meet up with me to have sex. Daulton Todd (male) would talk about how big his penis was, that I might like his large penis, he would like to choke me with his large penis, and would ask me to adjust his penis in his pants. Female employees, including Rachael Kelly, Brittany Hindal, and Karen Joyce also sexually harassed me by of talking about their sex lives with boyfriends/husbands and asked how they could improve their sex lives.

6. In May 2020 I complained about the sexual harassment to Karen Joyce and Bette Wiehn. They responded by reducing my hours the last two weeks I was employed. I was told by Karen and Bette they had received complaints about me but they had no details and remained vague.

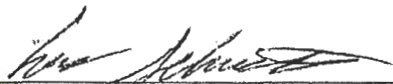
7. On June 6, 2020 I brought my concerns to Steve (Last Name Unknown – LNUK, male) and he said he would follow up and get back to me. On June 11, 2020 he called me and I thought he was doing the follow-up to my complaints. Instead Steve said, 'We're going to go ahead and accept your resignation.' I had not resigned, and therefore Respondent terminated my employment.

This space intentionally left blank.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I swear or affirm that I have read the above and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

X 

State of Nebraska County of York

On this, the 23 day of June, 2020.

The Complainant appeared before me, known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and acknowledged that they executed the same for the purposes therein contained.

Notary Public 

Notary Seal



EEOC Form 161 (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Lucas D. Schmidt**
411 N Iowa Ave
York, NE 68467

From: **Oklahoma City Area Office**
215 Dean A. McGee Avenue
Suite 524
Oklahoma City, OK 73102



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

32E-2020-00514

Michael L. Talton,
Investigator

(405) 666-0373

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission
ADRIAN MCDANIEL Digitally signed by ADRIAN MCDANIEL
 Date: 2021.06.14 15:46:51 -05'00'

6-14-2021

Enclosures(s)

For: **Holly Waldron Cole,**
Area Office Director

(Date Issued)

cc:

H. H. HALL RESTUARANT OF YORK, INC.
D/B/A McDonald's
4012 S Lincoln Ave
York, NE 68467

LIST OF OCCURRENCES:

- Within the first week of my starting back, Betty Jo sent me home early one evening due to an apparent dislike of me from another crew member who no longer works here. When contacting Karen about it, her response was “I already know.”
- Upon coming in to assist one busy evening shortly after my promotion to MIT, Betty Jo had assumed my annoyance as my not wanting her to be there and continued to verbally and emotionally harass me to the point of Karen sending me home.
- Despite my only taking one smoke break during work, aside from my meal break, Betty Jo has constantly complained about my doing so. It should be noted my smoke breaks take 5 minutes and I do them only when we are not busy and all areas are covered. Betty Jo has told me in person she doesn’t mind as long as I take out the trash or grease bucket, which I always do, yet continued to complain.
- When Betty Jo and I were the final 2 candidates of a home rental, I was selected. The following week was filled with snide comments, slight verbal harassment, and complaining openly to crew.
- When sitting down with Karen to discuss the first set of issues with Karen, Betty Jo would not allow me to speak or to give my side of the story. She became verbally abusive and continued to do so after being warned by Karen.
- On a near daily occurrence, Betty Jo will sit in the office for long periods of time when not doing her order, and will complain about me to Brittany, leaving both off the floor even when assistance is needed and they’ve been asked to help numerous times.
- On a near daily occurrence, I have heard Betty Jo say how much she doesn’t care, how much she wants to quit, and say she is not responsible for certain things. Crew members have also heard this and brought it to my attention.
- A crew member reported to me that she overheard Betty Jo yelling at her husband and calling him “stupid.” When asked about the behavior by the crew member, Betty Jo responded with “I would treat anybody that way.”
- On numerous occasions, crew have told me they prefer to work with me because of Betty Jo’s attitude, consistent disappearances, and refusal to help with closing tasks.
- One evening while closing with an MIT, Betty Jo had messaged the MIT and told her that I was being rude. I messaged Betty Jo myself to attempt explaining the situation, but the conversation turned into an argument in which Betty Jo told me I was “not worth her time” and that it was “pretty low for me to contact our sick boss,” along with several other verbally harassing comments.

- One evening while working with an MIT, Betty Jo had disclosed to her that “if it were up to her, I would have been fired already.”
- Karen had messaged me one morning informing me that it was highly unacceptable to call another employee “fat.” I spent several minutes explaining to Karen I had no knowledge of such an instance, but I feel as though it was not believed. Later that day, a crew member had come to me and informed me he confessed to Brittany that he had called Shane fat, which lead to Betty Jo complaining to Karen, telling her I was the one who said it.
- On numerous occasions, Karen has contacted me through text lecturing me about something I had done wrong - the majority of which I had no knowledge of and hadn’t done, all including Betty Jo and how it was supposedly targeted or done directly to her. These instances were all taken from either one word I had said through the night that were not directed at anybody, or a simple action I had done that were not directed at anybody.
- One evening while working, a crew member who I believed at the time could be a good candidate for management had approached me and told me that Betty Jo had said to her that she would not be a good manager because “she’s not worth it” and “could never learn what it takes.”
- On numerous occasions, Betty Jo and Brittany have both been the afternoon managers after Karen has left for the day. During every instance of this situation, I come in for my shift to find insufficient stocking and dirty work environments. When confronted about this, neither will complete what is required of them, or they will become defensive, verbally harass me, and leave without offering assistance. They have convinced Karen they have all done what is required of them, to the point where I begin listing specific items to Karen when informing her. The response I normally get from Karen in these situations is “it was done when I left.” I have discovered through crew these things are not done because the two will sit in the office the majority of the afternoon talking, even when the store is busy.
- On frequent occasions, crew has informed me of negative comments made about me by Betty Jo in my absence.
- Betty Jo’s attitude, such as the comments about her “not caring” and “wanting to quit” has rubbed off on crew members, to the point of the comments being heard most evenings by several crew members.
- Brittany will often times disappear, particularly during peak times. She has also been known to sit in the office during counting, often times taking up to 2 hours to do so. I personally have caught her several times messing around on her phone during this time. This occurs mostly on the evenings she is scheduled to work until 7 or 8.
- Brittany will give several warnings to crew about cell phone usage, yet she herself will sneak into the office multiple times in even just one hour to check or mess around on her phone.

- When previously closing with Brittany, she would refuse to assist in any closing tasks and sit in the office from the moment the doors are locked to the moment we are all ready to leave. On the nights she wasn't counting, she had been caught several times by myself or crew sitting out in the lobby either messing around on her phone or watching the TV when we had them. After bringing this to Karen's attention, she had begun to assist only me, but would still sit in the office the remainder of the night.
- During a recent situation, Aaliyah had apparently denied service to a bus that came later in the evening. As I was managing the kitchen that night, I personally did not see the bus nor did I see anybody who appeared to be from a bus enter the lobby. She and another crew member only informed me of the situation when I went to get a drink, but both were laughing during the story so I did not take it seriously. Only the next morning when confronted by Karen did I discover this had actually happened and that all others were telling Karen I was the one who told them "no." I had explained to Karen that I would definitely not do this because of the trouble I knew I would get in by doing so.
- Again during a very recent situation, Karen had messaged me and asked me to pick up another crew member on my way to work, stating that if I felt as though I did not need him because of his constant bickering and arguing with other crew and managers, I did not have to pick him up. Upon arriving, I was greeted with Aaliyah yelling and throwing things around demanding I pick him up. I refused, explaining to her that if she did need help in the kitchen, I had a spare crew member I could send to her. After more yelling at me, and more attempts to explain to her that he was not needed, she told me "if I didn't like it, I could leave." At this point I exited the store, sat in my car and called Karen, informing her of the situation. I felt as though it was not handled properly, because Karen had told me to have a cigarette, go inside, and put her on speaker so she could talk to Aaliyah. She had informed Aaliyah that she and I needed to have a discussion after the crew left for the evening, yet this did not happen. The majority of the evening was filled with Aaliyah making condescending comments about me to crew, despite Karen telling her not to.
- On the same evening the bus incident occurred, Aaliyah had spent the majority of the night avoiding direct contact with me, and when contact did occur, despite the subject, I was greeted with snarky comments. When confronting her about her attitude that evening, she explained to me that she was frustrated with the job. She asked me if I just wanted her to be "constantly cheerful and bubbly." I proceeded to explain to her that while that wasn't completely necessary for her to do, her negative attitude does reflect on the crew.
- On another recent closing shift, we had a very slow evening - slow enough that lobby was completely finished before even locking the doors. Upon locking the doors at 11, dive person only had to wash the dishes used for cleaning the grill, our front person only had to mop, and I would be counting. At close, Aaliyah had informed me she would try her best to get grill done, but could not guarantee it be done quickly. She further went on to explain that because she wanted

overtime, she wanted to be out of here after 12:30. By midnight, the crew and I were all finished with all other areas, yet Aaliyah had only begun wrapping condiments to be put away in the reach in. She had been stopping her work on numerous occasions to either walk back into the office, walk up front or to the restroom, or to stop and talk for several minutes to crew. She had also yelled at a crew member that evening for talking to my husband about non-work related subjects. Because all other closers were done with their areas, I instructed the others to assist Aaliyah with finishing her tasks. While we were all assisting Aaliyah, she became increasingly agitated and by 12:15, we were all clocking out to leave. While clocking out, Aaliyah looked at me angrily and said "Lucas just doesn't want me to get overtime."

This list does not include every instance, but all the major instances that Karen is aware of. Several smaller and more minor instances have occurred that to my knowledge, Karen is unaware of.

Events that Occurred to me that I felt were Discriminatory

As a gay, married male, I felt I was unable to receive the same and fair treatment in the following ways. These events were ongoing from the beginning of my employment, continued through my employment, and escalated as time went on.

1. When making complaints to management about the sexual harassment, or any other types of issues, my complaints were dismissed or ignored, whereas any issues brought up by other heterosexual employees, regardless of the nature, were given upper management's full attention. When bringing this to Karen's attention, her exact words to me were "I know I kinda put that stuff on the back burner, but I'm just really busy."
2. In the summer of 2019, my husband was out of work for a short period of time, so I had asked Karen if it were possible that he could work at the store until he found a job in his field. She refused to hire him because of us being married – despite having hired the spouses/significant others of several other heterosexual employees in similar situations. Specifically, Betty Jo's husband (Weston), Brittany's husband (Chad), Raechel's boyfriend (Michael), Amber's husband (Byron), and Tanesha's boyfriend (Tanner).
3. My kitchen times were always very low and had in fact won a competition within the 13 stores the owners own. Bette and Karen refused to allow me in the kitchen more, despite their complaining about how or times needed to be lower – closer to what my times always were. They told me "You can't be in the kitchen all the time" when I brought this to their attention in late May of 2020. This confused me as Doug (a straight male manager), April (a straight female manager) and Betty Jo (a straight female manager) were always put in the kitchen regardless of the circumstances.
4. On several occasions, I had brought forward to Karen that I believed some employees needed further training and coaching, but I was told by Kare and Bette that I was wrong for feeling this way. Yet if Brittany or Betty Jo brought forward the same issue, it was addressed immediately and praised.
5. In late December of 2019, my father was hospitalized while I was at work. I called Karen to tell her and her response was "You wouldn't be able to do anything even if you were there, so you need to stay." Roughly a month later, Betty Jo's mother had been hospitalized while she was at work and Betty Jo was called by Karen and told "You need to go and be with your family."
6. In October of 2019, I had received a second degree burn on my hand while cleaning the grills (They did pay worker's compensation for this). I had to go to the hospital as I had skin peeling off and was unable to leave the sink where I was running my hand under cool water. I was physically unable to perform my duties as a result of the injury and needed to go home. It took 2.5 hours of exchanging pictures of the injury, phone calls, and text messages before I was allowed to leave. However, on several occasions, Brittany would arrive to work with a very slight headache and be sent home immediately. I was usually the one called in to cover her.

7. In late January of 2020, I had arrived 5 minutes late for one shift – my first time being late in a while and I did call to let them know I would be late. Brittany was mad about me being late, especially after I brought it forward to her that she's always 5 minutes (or more) late for every single one of her shifts, and had told Karen I was 10 minutes late. This prompted Karen to call and yell at me for being late, so I sent Karen a picture of the time clock showing I was only 5 minutes late. During this phone call I also brought forward the fact that Brittany is late for every shift, as was Betty Jo, yet nothing was ever said or done to them. Karen's excuse was that Betty Jo lives farther away and Brittany has children.
8. I was often accused of doing or saying something other employees had said/done with no chance to defend myself. One example is that a crew member (who admitted to other managers) called Betty Jo's brother "fat." Karen called ME and yelled at me, telling me it was extremely inappropriate for me to call somebody fat. Again, I was given no chance to defend myself or explain that I had no knowledge of this occurring. Even after the employee confessed to Karen that he was the one who called the other employee fat, I did not receive an apology, nor was the mistake made on Karen's end acknowledged.
9. On several occasions while closing with Brittany, she would often wander off after close and either sit in the office on her phone or sit in the lobby watching TV (before the remodel when we had televisions in the lobby). I brought this forward to Karen, but the behavior continued, even after several complaints from crew. I would often take a longer time to count the drawers at night as I worked the busier evenings, and despite the crew verbally thanking me in front of Karen for helping them, I would be chastised for "not helping."
10. During my 2 ½ years of working at the store, I only worked a breakfast shift 1 time – May 30th, 2020. I was placed as the manager in charge on that shift, despite not knowing how breakfast was run, how the breakfast menu worked, how the breakfast foods were made, or the strengths/weaknesses of the crew I was placed with. I didn't even know some of their names. I had 3 other managers on this shift with me who were all regularly scheduled for breakfast shifts, none of whom did anything to provide me any assistance despite my asking regularly throughout the shift. I was called on the store phone by Bette, who yelled at me for what I was doing wrong and was not given a chance to explain to her that I had never done this shift before and had no idea what I was doing. She told me that if Doug and Austin can do it every day, then I can. Again I was not given a chance to explain that Doug and Austin are used to that shift and know what they're doing, but as I had never been trained on that shift, I did not.

Those guilty of sexual harassment and their offenses:

- David Nelson (several sex jokes, penis jokes, pornographic jokes, creating pornographic art using unusual things such as butter or condiments) – “Let’s go in the freezer where there’s no cameras.”
- Daulton Todd (penis jokes, discussing his penis with others, sex jokes, discussing his sex life outside of work) – “I’d bet you’d like my big dick.” “My dick is too big. It’s uncomfortable.” “Hey, my hands are full, can you fix my dick for me?”
- Raechel Kelley (discussing her sex life outside of work, constant flirtation with male customers and crew, sex jokes) – “How can I give him a better blowjob?”
- April Jinright (sex jokes)
- Betty Jo Glines (sex jokes, discussing her sex life outside of work)
- Hope McGraw (discussing her sex life outside of work, sex jokes)
- James Rowe (sex jokes, pornographic jokes, discussing sex life outside of work, creating pornographic art using unusual things such as butter or condiments) – “I’m only 16 but we don’t have to tell.”
- Lane Wurst (sex jokes, creating pornographic art using unusual things such as butter or condiments)
- Aaliyah Summerville (sex jokes)
- Brittany Hindal (sex jokes) – “Chad actually smells really good down there.”
- Chad Hindal (sex jokes, discussing his penis with others, comments of sexual nature of social media to coworkers) – “I wish mine was bigger but I’ve had no complaints.”
- Kathy, last name unsure (sex jokes, discussing sex life outside of work)
- Doug Todd (sex jokes, discussing sex life outside of work, providing other intimate details of himself) – “I thought about getting my dick pierced. What do you think?”
- Karen Joyce (sex jokes, comments to employees of sexual nature on social media)

To Whom it May Concern:

I, Lucas Schmidt, Certified Swing Manager at the York, McDonald's location, have begun to feel harassed, targeted, and retaliated against while at work and am including my side of the issue to you. Several pages follow, and I apologize for the length. However, despite my repeated attempts to rectify and resolve any issues, including those not related directly to me or those that were my doing, it has become apparent to me that I need to bring these issues to the attention of somebody higher. Thank you for taking the time to read through this.

I have been bringing issues forward to both Karen and Bette for the entirety of my employment here. As I have told them both, I no longer bring most issues to them as I feel nothing will result from the discussion. Each time I bring forward an issue to either of them, the conversation turns from how to resolve the problem to why I am wrong and how they are blaming me. As I have also informed both Karen and Bette, I would not be bringing an issue forward to them if I hadn't already done everything I had been instructed to do by both of them, as well as attempting tactics I had learned in both classes I had been sent to, as well as methods learned through online videos and one-on-one conversations with the two and my fellow managers. That being said, I am made to feel as though I am not good enough with the way the two have handled every situation I am involved in. They may not feel this way personally, but their actions and behaviors are speaking in a much higher volume than their words. I have been made to feel as though they are pushing me to quit. Especially when they repeatedly tell me they are too busy to deal with something. If you care about your crew like you say, you should never be "too busy."

My reasoning for saying this is though the two have not made any complaints to me about Steve, or to each other (as far as I am aware), is the fact that they have made it very obvious to me that they are more concerned about other events than they are about the issues that have been going on since my beginning here and are continuing to this day. I no longer have reason to believe them when they say they are going to take care of anything. They do not follow up with me to simply inform me they have spoken with the other parties involved – I am not asking for specific words, responses, or details. All I am asking for is the assurance that they have at least attempted to resolve a problem. On the very rare occasion that they have informed me they discussed the issue with the other parties involved, the problems continued. I have included a list of issues I brought to their attention several months ago, having highlighted issues that are still continuing. Obviously, I am capable of resolving issues with others, such as Betty Jo. She and I were incapable of communicating or working together for more than a minute, but now we are great together. Is that not enough proof of my capability to resolve issues with others when they are also willing?

Recently, Bette and Karen wished to discuss with me and have me sign papers regarding my husband being in the store after hours and a sexual harassment claim. I have included on a separate piece of paper others you need to discuss these same issues with just to make it fair, along with the offenses. I accept some level of guilt – but am not guilty of initiating any of the

conversations of occurrences. If I am not the only person guilty, but I am the only one being reprimanded, what reason do I have to believe that I am not being targeted? And if you ask them, I am absolutely positive they will deny any allegations. And if Steve told me that Kreig being there is not causing any major issues he does not see what is wrong with it, then why am I being reprimanded? Both issues have been happening since my starting here, but now are suddenly a problem after making several complaints to Karen and Bette? How am I not supposed to view this as retaliation of any sort? Especially when I am not the only one guilty. And I find it especially concerning to me when both Karen and Bette have witnessed Kreig inside (even allowing him behind the counter last year during our cleaning for BSV) and both have stated “I don’t see anything.”

Despite the common occurrence of these not only by me but by several others listed, only after my attempt to discuss several issues with both Karen and Bette did begin feelings of being targeted or retaliated against being to arise. I have noticed after that discussion, I was cut down to 4 days a week instead of 5, and I have gone from 40 plus hours to 32. There was an agreement between us that I would work 1 day shift a week, but I do not remember stating I would be willing to work more than that. The issue I see with this change is that Bette and Karen both stated that they believed it would be beneficial for me to assist April in training and training needs for the night shift, as she does not work those hours or with those people. If I am only working one or two nights a week, it would be pointless and nearly impossible for me to have such duties and perform them successfully.

I do not appreciate being yelled at, as I am sure most others share the feeling. Bette and Karen will call this “coaching,” however, coaching is not yelling. As an example, when being scheduled for the breakfast shift on Saturday, June 6th of 2020, Bette called the store because of our times. She would not allow me to explain to her that it has been almost a year since I have worked a breakfast shift – and I have only worked 3 or 4 breakfast shifts since my starting here. As I work primarily nights, I do not know the strengths and weaknesses of the morning crew, I do not know how to make breakfast items, I do not know cooking or wait times for those items, I do not know how to make certain items up front (ex. Oatmeal.), and I do not know goals and targets for KVS or OEPE during out breakfast times. Despite this, Bette had stated during the call that it was my responsibility – which I can agree with – however, I feel as though if I am going to be working mornings more frequently, I need more training. No yelling, no negative feedback – proper training. Other scheduling issues will be discussed further on.

Another major concern of mine is that despite my proving on multiple occasions that my KVS times are consistently low, I am being made to feel as though they are not good enough. I mentioned to Bette in a meeting that having me back there would lower our KVS times. Her response was “That’s not the right mindset to have.” If it isn’t, then why is Doug always back there? Why is Janine never back there? Why are we putting certain managers back there far more often than we put them upfront? Since that meeting, I have had only 2 chances to manage the kitchen – not nearly enough to prove my point. However, my KVS times are consistently below 60 seconds when I am the one managing the kitchen. I am aware that is not quite meeting our goal of 35-50, however, it is not uncommon for me to be in the 40s. For example, on the same

Saturday Bette had called the store, I had been on side 2 during lunch peak. When I got to side 2, the time was at 111. Within 45 minutes I had brought that time down to 32. I am not sure what my final time was at the end of peak, but I do know it was lower than side 1 – which was run by the person she claims is “best” in the kitchen at KVS. Another point I would like to remind them of is that the 2 openly admitted to me that I was the reason we had won our KVS competition. I would like to request that on the nights I am the kitchen manager, you look at my times and compare them to the others.

I do not claim to be perfect, as I know I certainly have room to improve. However, I do feel the need to be acknowledged with the accomplishments I have made. The lack of acknowledgment, along with the other issues I have mentioned and the others to follow, admittedly have contributed to my not caring as much. I hate feeling as though I am failing our customers, but the constant thoughts in my head that I am not good enough nor am I appreciated enough for the work I do, causes me to believe that even if I were to be outstanding in every possible way I would still receive the same treatment.

A huge concern of mine, that goes along with the training, is the lack of staffing. I understand that York can be a tough market for a decent amount of crew – however, I feel as though we do have enough at this point that I can be given more. It is not possible for me to train if I do not have the staff to do so. It is also not possible for me to put all of my focus on OEPE, OSAT, and KVS if I am having to constantly work in other areas because I do not have the staff to cover those positions. That, in my opinion, falls on you – not me. If you want me to focus on the things you need me to focus on, you need to give me the staff to allow that. The only thing I really enjoy about working days is the higher number of staff, which helps everything run more smoothly and allows managers to put more focus where it needs to be. And along with the training, it has been mentioned numerous times by others before I realized that it seems as though you will give us new hires to train, then take them for yourselves if they are trained well enough.

I am also having a huge issue with others lying. I will bring forward an issue to you, you will question them, and they will tell you the exact opposite of what they have told me. Example: when I had mentioned that Raechel was having the same issues with Aaliyah, she told you “it was only the one time.” Yet, she and I discussed at length several similar issues we shared with Aaliyah, which prompted me to bring that issue forward to you. If she had not agreed with me about everything and informed me of the issues she was having – which is not my place to bring to you – I would not have wasted anybody’s time with them. And of course, those I bring forward to you will not behave the same way when either of you are around – which is why I need more trust from you. If you are not working those shifts in the same position and title as me, you do not see them the same way I do, and therefore, do not truly know exactly what is happening. In relation to this, I also feel as though all someone has to do is tell you something negative about me once and I get yelled at or reprimanded for it, but when I bring something up about somebody else, it’s set aside. The consistency of this occurrence also makes me feel as though I am being targeted. In relation, I personally do not feel they have done enough, and it seems as though nothing was ever discussed with Aaliyah. They do not want us working

together. If that is the case, why is Aaliyah continually staying much later than her shift? Sunday night she was scheduled off at 5 and was here until almost 7. If she was aware of their wanting us to work together, she should have left much earlier.

I do not feel as though I am taken seriously. Most things I have brought forward seem to be pushed to the side and never revisited. This only causes them to continue. I would not have walked out that night if I truly did not see everything as incredibly serious. As I told both Karen and Bette the next morning when meeting with them, I had absolutely no intention of coming back. The deciding factor in my return was that Bette had actually taken some time to listen to me instead of attempting to coach me or belittle me on the phone the night before. The next morning, her behavior was the same as usual – coaching me when I did not need it, not allowing me to finish my thoughts or my point of view, and making it seem as though I was the one to blame. I am done being blamed for things I am not guilty of. This happens quite a bit more than the two probably realize. Even in the past when having one-on-one discussions with others, I was never allowed to completely explain my side or my feelings or point of view unless I did so in writing – which is why I am doing this now. I have always been cut off and had the stories twisted around to make me look like the bad guy. I am done with that. As you have brought up in our previous meeting, you know you have to speak to different people in different ways. You have not done that with me, and you have had several opportunities since our meeting to do so. My response to yelling is shutting down – regardless of the situation. My response to negative feedback is shutting down. On the opposite end, my response to positive feedback is a better attitude and better results. I interpret uninvited coaching as a personal attack. If I am seeking coaching or training, I will ask for it. This does not mean that I am against coaching. It simply means it needs to be approached differently with me. And yes, I am aware that my mood at that moment does affect it at certain times, however that is the general way to handle those things with me. I am Bipolar Type 1, and I do take medications for it to (mostly) control that issue, but tone, body language, and wording are all triggers. No, you do not have to cater to it, but you do need to be aware of it as it does affect a great deal of my life.

As far as the “catering” goes, I feel as though there is far too much of that going on. The amount of pacifying situations is out of control and making it difficult for me, as a manager, to do my job. “She doesn’t like to do this, so let’s keep her out of there.” “He doesn’t like doing that, so let’s put him somewhere else.” “She doesn’t like this, so let’s just let it go.” They have even attempted to pacify situations with me, it seems. They will tell me something they think I want to hear, but not follow through in any way that I can identify. Because of this severely ongoing issue, I feel as though now I have to walk on eggshells for most of our crew. I should not have to feel this way. This is their job. If they don’t want to do something that is what they are being paid to do, this is not the place for them. Plain and simple.

I do not feel as though I am appreciated enough. I do not feel that if I were to be sick or have an emergency, I would not be able to call in to take care of it. For example, there was a situation involving my family a few weeks ago that I was very close to having to go deal with up by David City. I called Karen to inform her of the situation and that I may have to go take care of it, and her immediate response was “I don’t have anyone to cover you.” I have noticed, though,

on numerous occasions, that if any other person – crew or manager – were to call with the same situation, she tells them to take the day off to handle it or that she will get it covered. I may not have kids, but I still have family. My father and stepmother have several health issues, and as a result, I may have to take my sisters in without warning at any given moment. When my father went to the hospital a few months ago, I was not given the opportunity to leave. But when another manager's mother had gone to the hospital just shortly before, Karen urged them to go see her. I have also, in several instances, helped and came out when emergencies have occurred. There is only one instance in which the same happened to me – when I got 2nd degree burns on my hand while working. I understand managers are held to a higher standard regarding attendance and flexibility, but that should not mean that we wouldn't be able to call off in case of an emergency or sickness. I have come to work multiple times when I should not have and did not have coverage – which is a food safety issue. And if Brittany can claim to have an emergency and be able to leave right away or be granted the night off, why can't I when I really do have one?

Back to the scheduling issue. My husband and I only have one vehicle at this time. My preference to work on nights is a huge consideration to that fact. My husband has been working two days a week in Lincoln for the past several weeks and will be continuing to do so for several more, due to uncontrollable circumstances on their end. I have requested on numerous occasions that I do not be scheduled those two days he has to work in Lincoln, yet have been scheduled for several of those days – despite her knowing that I do not have a sure way to get in. She had commented she would help but has not. It would be very expensive for us to have me drive him to work in Lincoln, then come back and risk being late to my job here as a result, then to turn around and drive all the way back to Lincoln that night and return home around 3 in the morning. Another issue I have been seeing is that for some reason lately I have been entirely by myself as the only manager on multiple night shifts. I have also been the only manager closing on most of my shifts for the past couple of weeks. They are constantly speaking about how they want more than one manager on each shift but are now lacking in this area. While I personally do not mind being the only manager, it does make things more difficult. I typically have to put myself in a position that I cannot get out of very easily if I am the only manager. It also pulls focus away from OSAT, KVS, OEPE, and other duties of mine if I do not have the other manager as support for the entire evening. Yes, there are some other issues there, so that could be the reason why – but if that is the case, then there shouldn't be as much complaints about our targets if I don't have the same support the day shift has. I am only one person. I can't be everywhere at the same time, especially if on top of being the only manager I am lacking the proper staff.

I love this place. Obviously. If I did not, I would not have stuck around for as long as I have with everything that has been going on.

From this point forward, I will no longer be bringing forward any issues to Karen or to Bette, as they have proven to me that I can not trust them to fully resolve any issues without also making me feel as though I am the one to blame. I will be discussing everything with Steve until it has been proven otherwise.

The following pages include others who are guilty of the issues Karen and Bette attempted to discuss with me. If we want to keep things on an even keel, as the two have stated before, then these other individuals should receive the same treatment as I have. And since we really have not bothered doing much “investigating” when accusing me – now or for any other issue I have been blamed for - I feel it is only fair to do the same to them. Just to keep it “fair,” as you two like to say.

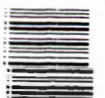
Thank you,

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